

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

SUMMONS FOR JUDGMENT NO. 985 OF 2003

IN

SUMMARY SUIT NO. 2869 OF 2003

Smt. Babita Rajaram Sahu Plffs.

VS.

Mr. N. Ramchandra Bhatt Defnds.

J.S. Kini for the plaintiffs.

Jaideep Raut i/b. Suvarna Joshi for the defendants.

CORAM: S.U. KAMDAR, J.

DATE : 17TH AUGUST, 2005.

P.C. : .

1. The present suit is filed on the basis of

dishonoured cheques which is dated 11.5.2002 for the sum of Rs.6.00 lacs. The cheque has been dishonoured on 17.8.2002 on the ground of insufficient funds. The only defence raised by the defendant is that the cheque was infact stolen from their house by breaking open the Almari. It is an admitted position that for the first time a complaint was filed in respect of the stolen cheque on 3.10.2002. Though there was an earlier complaint on 28.7.2002 of breaking open the almari there was no complaint of the cheque being stolen raised therein. It is also an admitted position that the cheque was dishonoured on 17.8.2002 and a criminal complaint was filed by the plaintiff u.s. 138 of the Negotiable Instruments Act r.w. s.420 of I.P.C. and the summons were served on the defendants on 25.9.2002. Obviously it is only thereafter that a purported complaint dated 3.10.2002 is filed so as to escape from the liability of the amount due and payable under the said dishonoured cheque. In the aforesaid circumstances I am of the opinion that the defence raised is totally bogus and is without any

substance of any nature whatsoever. However with a view to grant an opportunity to the defendant to defend the suit I pass the following order.

Defendant to deposit a sum of Rs.6.00 lacs within a period of 8 weeks from today. If the amount is not paid as aforesaid plaintiff will be entitled to the entire decretal amount. If the amount is paid as aforesaid, then suit is transferred to the list of Commercial Causes. Written statement or points of defence to be filed within four weeks from today. Affidavits, list of documents to be filed within four weeks thereafter. Inspection within four weeks thereafter. Suit to be on board of the learned Judge taking Commercial Causes.

sd/-
